IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 26TH JULY 2007 / 4TH SRAVANA 1929

Bail Appl..No. 4480 of 2007()

CRIME NO.327/07 OF MALA POLICE STATION

PETITIONER/ACCUSED 1 & 2:

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1. SADANANDAN, AGED 45,
   S/O. KRISHNANKUTTY, CHETTIYAMPARAMBIL HOUSE,
   VADAKKUMBHAGAM VILLAGE, ASHTAMICHIRA DESOM,
   THRISSUR DIST.

2. KOMALAVALLI, AGED 43,
   W/O. SADANANDAN, CHETTIYAMPARAMBIL HOUSE,
   VADAKKUMBHAGAM VILLAGE, ASHTAMICHIRA DESOM,
   THRISSUR DIST.

BY ADV. SRI.M.H.HANIL KUMAR

RESPONDENTS: COMPLAINANT/STATE:

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1. SUB INSPECTOR OF POLICE,
   MALA POLICE STATION, THRISSUR DIST.,
   REPRESENTED BY THE PUBLIC PROSECUTOR,
   HIGH COURT OF KERALA, ERNAKULAM, COCHIN-682 031.

2. STATE OF KERALA,
   REPRESENTED BY THE PUBLIC PROSECUTOR,
   HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 26/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. NO.4480 OF 2007

Dated this the 26th day of July, 2007

ORDER

Application for anticipatory bail. The petitioners are spouses. They apprehend arrest in a crime registered under Sec.420 of the IPC. The crime has been registered on the basis of a private complaint filed before the learned Magistrate and referred to the police by the learned Magistrate under Sec.156(3) of the Cr.P.C.

2. The crux of the allegations is that the petitioners – spouses, had entered into an agreement for sale of immovable property including a house to the de facto complainant and his wife. That agreement was on 13/7/06. The agreement was to sell 15.25 cents of property belonging to and in possession of the petitioners. Later, a sale deed was executed assigning the entire property on 29/3/07. In between on 13/11/06, the petitioners had allegedly transferred half a cent of property to

a neighbour. The crux of the allegation is that there was fraudulent conduct on the part of the petitioners of executing an assignment deed to a stranger out of the property agreed to be sold and fraudulent suppression of such assignment when they executed the sale deed.

3. The crime has been registered. Investigation is in progress. The petitioners apprehend imminent arrest.

4. The learned counsel for the petitioners submits that crucial significance and importance may not be attached to the recitals in the document as that document is prepared by the buyer and the signature subscribed by the vendor. The buyer knew clearly that half a cent of land which was used as way to the neighbour's property had been assigned to such neighbour before the sale deed dated 29/3/07 was executed. In fact, civil litigation is also pending before the civil court on this aspect, he submits.

5. The learned Public Prosecutor does not oppose the application; but only submits that appropriate conditions may be imposed in the interests of a fair, efficient and expeditious investigation. I am satisfied that, in the facts and circumstances of this case which have been briefly adverted to earlier, it is not necessary to insist on arrest and custodial interrogation of the petitioners. Anticipatory bail can be granted to them, I am

satisfied. Appropriate conditions can, of course, be imposed.

6. In the result, this petition is allowed. Following directions are issued under Sec.438 of the Cr.P.C:

(i) The petitioners shall appear before the learned Magistrate having jurisdiction at 11 a.m. on 2/8/07. They shall be released on regular bail on their executing bonds for Rs.25,000/- each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(ii) The petitioners shall make themselves available for interrogation before the Investigating Officer between 10 a.m. and 1 p.m. on 3/8/07 and 4/8/07 and thereafter on all Mondays and Fridays between 10 a.m. and 12 noon for a period of one month. Subsequently, they shall so make themselves available for interrogation before the Investigating Officer as and when directed by the Investigating Officer in writing to do so.

(iii) If the petitioners do not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioners and deal with them in accordance with law as if those directions were not issued at all;

(iv) If the petitioners were arrested prior to their surrender on 2/8/07 as directed in clause (i) above, they shall be released on their executing bonds for Rs.25,000/- each without any

sureties undertaking to appear before the learned Magistrate on 2/8/07.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge